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CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (53-24)
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29 February 2012

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 16/4, 15/21, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the **alleged excessive use of force by law enforcement authorities and the detention of protestors belonging to the Maldivian Democratic Party (MDP)**.

According to the information received:

On 7 February 2012, following the resignation of Mr. Mohamed Nasheed as President of the Maldives, MDP members started a protest near Reef Side. A confrontation ensued between the protestors and law enforcement authorities when they tried to end the protest. It is reported that a MDP member, Ms. Maria Mohamed Didi, was stabbed. Some police officers were also injured. The MDP's headquarters were partly destroyed.

On 8 February, a large group of MDP supporters, including Mr. Nasheed, walked towards their headquarters, and then proceeded to the boduthakurufaanumagu, the surrounding road of Male' where additional supporters joined the march. The march was eventually stopped by police forces wearing shields, near the Maldives Monetary Authority building. Police forces first sprayed tear gas, then pushed away some of the protestors. In return, the protestors threw stones and other items at the police. The police sprayed the protestors again after issuing a last warning before dispersing the crowd. They then proceeded to beat the protestors. Mr. Bondey, a member of Parliament (MP), and another protestor, reportedly fell on the floor, covered in blood. MP Moosa Manik was hit in the head and suffered

serious injuries. He was admitted to the ICU hospital, and later taken to the airport to be flown to Colombo because his condition became critical. However, the immigration officers did not allow him to board his flight because his name was allegedly on a travel blacklist. A total of 37 people were taken to hospitals to seek medical treatment; 40 persons were reportedly arrested during, and in the aftermath of, the protest, including Reeko Moosa Manik, Imthinaan, Ahmed Rasheed. According to reports, four persons remain in detention, and 22 are under house arrest.

The Human Rights Commission of the Maldives publicly condemned the excessive use of force against protestors.

The Maldives Media Council reportedly expressed concern about the excessive use of force by the security forces against journalists who were covering the protests. The Media Council further voiced concern about the police cutting off the Raajje TV's cable used to broadcast the protest on live television.

The Chairwoman of the Police Integrity Commission acknowledged on Raajje TV that the police used excessive force against protestors. Cases of excessive use of force will reportedly be investigated, and due process will follow.

Serious concerns are expressed at the alleged excessive use of force against protestors, and the targeting of journalists who were covering the protests. Further concerns are expressed at the interruption of the live coverage of the protests by the police.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights.

We should also like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases of the persons named above. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

We would also like to draw your Excellency's Government's attention to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms."

Furthermore, Principle 5 provides that, “Whenever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.” (Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990).

We would like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the International Covenant on Civil and Political Rights, which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

With regard to the allegations of excessive use of force against journalists who were reporting the protests and that the police reportedly cut off the cable of Raajje TV, which was used to broadcast the protest, we would like to refer to paragraph 45 of general comment No. 34 of the Human Rights Committee, which states that “[i]t is normally incompatible with paragraph 3 to restrict the freedom of journalists and others who seek to exercise their freedom of expression [...] to restrict freedom of movement of journalists and human rights investigators within the State party (including to conflict-affected locations, the sites of natural disasters and locations where there are allegations of human rights abuses).”

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that “Calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please provide information concerning the legal grounds for the arrest and detention of the abovementioned persons and how these measures are compatible with international norms and standards as stated, *inter alia*, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Frank La Rue

Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Maina Kiai

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association

Juan E. Méndez

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